

**COMMISSION ON STATE MANDATES**

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September 1, 2006

Ms. Jeannie Oropeza  
Department of Finance  
915 L Street, 7<sup>th</sup> Floor  
Sacramento, CA 95814

*And Affected State Agencies and Interested Parties (See Enclosed Mailing List)*

**Re: Draft Staff Analysis and Hearing Date**

*Law Enforcement College Jurisdiction Agreements, 05-PGA-10 (98-TC-20)*

Department of Finance, Requestor

Education Code Section 67381

Statutes 1998, Chapter 284

Dear Ms. Oropeza:

The draft staff analysis for the request to amend the above-named parameters and guidelines is enclosed for your review and comment.

**Written Comments**

Any party or interested person may file written comments on the draft staff analysis and proposed parameters and guidelines by **September 21, 2006**. You are advised that the Commission's regulations require comments filed with the Commission to be simultaneously served on other interested parties and to be accompanied by a proof of service. If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

**Hearing**

This matter is tentatively set for hearing on **October 26, 2006**, at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

**Special Accommodations**

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

If you have any questions, please contact me at (916) 323-8217.

Sincerely,

NANCY PATTON

Assistant Executive Director

Enclosures

**ITEM \_\_\_\_\_**  
**REQUEST TO AMEND PARAMETERS AND GUIDELINES**  
**DRAFT STAFF ANALYSIS**

Education Code 67381  
Statutes 1998, Chapter 284

*Law Enforcement College Jurisdiction Agreements*

05-PGA-10 (98-TC-20)

Department of Finance, Requestor

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**Executive Summary**

The Executive Summary will be provided with the final staff analysis.

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## **Requestor**

Department of Finance

## **Chronology**

04/26/01	Commission adopts Statement of Decision
01/24/02	Commission adopts Parameters and Guidelines
09/14/05	Department of Finance requests that parameters and guidelines be amended
08/ /06	Draft staff analysis issued

## **Summary of the Mandate**

Education Code section 67381 requires law enforcement agencies of all public colleges and universities and some independent postsecondary institutions to enter into written agreements with local law enforcement agencies. The agreements delineate their respective geographical boundaries for investigating certain violent crimes on campuses. The section further requires the agreements to be posted for public viewing and a copy to be transmitted to the Legislative Analyst.

On April 26, 2001, the Commission on State Mandates (Commission) adopted the Statement of Decision for *Law Enforcement College Jurisdiction Agreements* (98-TC-20, formerly *Campus Safety Plans*.)<sup>1</sup> The Commission found that Education Code section 67381 constitutes a new program or higher level of service and imposes costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 on community colleges. Accordingly, the Commission approved this test claim for the following reimbursable activities:

- preparing the written agreements, or
- reviewing and modifying existing agreements to conform with section 67381, and
- placing these written agreements in a place of public viewing and transmitting them to the Legislative Analyst.

On January 24, 2002, the Commission adopted parameters and guidelines for this program. The parameters and guidelines clarified that any community college was an eligible claimant for this program.<sup>2</sup>

## **Department of Finance's Proposed Amendments**

In previous Commission decisions, based on the Supreme Court's holding in *Kern High School Dist.*, school districts were not entitled to reimbursement for activities required by the state when the activities are triggered by the discretionary local decision to employ peace officers. Based on these past decisions, on September 14, 2005, the Department of

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<sup>1</sup> Exhibit A.

<sup>2</sup> Exhibit B.

Finance requested that the *Law Enforcement College Jurisdiction Agreements* program be amended to remove community colleges as eligible claimants for this program.<sup>3</sup>

Finance states in its request:

Education Code Sections 38000 and 72330 permit K-12 school and community college districts to establish police departments, but do not require it. Therefore, forming a police department is a discretionary activity on the part of these districts, and pursuant to case law and consistent with other Commission decisions regarding school and community college district law enforcement activities, the consequences of participation in a discretionary program cannot be found to be reimbursable.

**Issue: Does the Commission have jurisdiction to retry this issue once it made its determination that *Law Enforcement College Jurisdiction Agreements* constituted a state-mandated program for community colleges?**

On April 26, 2001, the Commission determined that the *Law Enforcement College Jurisdiction Agreements* program constituted a state-mandated program for community colleges.

It is a well-settled principle of law that an administrative agency does not have jurisdiction to retry a question that has become final. If a prior decision is retried by the agency, that decision is void. (*Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407, where the court held that the civil service commission had no jurisdiction to retry a question and make a different finding at a later time; *City and County of San Francisco v. Ang* (1979) 97 Cal.App.3d 673, 697, where the court held that whenever a quasi-judicial agency is vested with the authority to decide a question, such decision, when made, is res judicata, and as conclusive of the issues involved in the decision as though the adjudication had been made by the court; and *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal.App.3d 140, 143, where the court held that in the absence of express statutory authority, an administrative agency may not change a determination made on the facts presented at a full hearing once the decision becomes final.)

The Commission's Statement of Decision became final when it was mailed or served on April 27, 2001. (Cal. Code Regs, tit. 2, section 1188.2, subd. (b).) Therefore, the Commission does not have jurisdiction to retry or change a finding made in the Statement of Decision.

## **Conclusion**

The Department of Finance's request to remove community colleges as eligible claimants should be denied because the Commission does not have jurisdiction to retry this issue once it made its determination that Education Code section 67381 constituted a state-mandated program for community colleges.

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<sup>3</sup> Exhibit C.

**Staff Recommendation**

For the reasons stated above, staff recommends that Department of Finance's request to amend the parameters and guidelines for the *Law Enforcement College Jurisdiction Agreements* program be denied.